

IN RE: Memphis Hunt and Polo Club)
 Ward 080, Block 008, Parcel 00150) Shelby County
 Tax Year 2005)

Statement of the Case

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$3,242,900	\$572,200	\$3,815,100	\$1,261,125

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The taxpayer contended that subject property should be valued at \$2,450,000. In support of this position, the taxpayer argued that the highest and best use of subject property is to demolish the improvements and develop “a high end single family development with approximately 19 lots. . .” Mr. Schwalls introduced a subdivision analysis which indicated such a development has a net present value of \$2,450,000.

The assessor contended that subject property should be valued at \$3,815,100. In support of this position, Mr. Bankston argued that subject property is special purpose in nature and should be valued in use. Mr. Bankston introduced several sales to support the present appraisal of subject land. The various improvements were valued by the cost approach.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

¹ 12.06 acres are subclassified residentially and appraised at \$1,766,140. The remaining 8.04 acres are subclassified commercially and valued at \$1,476,800

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the taxpayer.

The administrative judge finds that the Tennessee Assessment Manual indicates at page AP-8 that special purpose properties are properly valued in use rather than in exchange. The undersigned administrative judge concluded in *UCAR Carbon Co., Inc.* (Montgomery Co., Tax Year 1994) that limited-market properties are also properly valued in use. Respectfully, the administrative judge finds that subject property cannot be considered special purpose or limited-market in nature.

The administrative judge finds that the Assessment Appeals Commission rejected a strikingly similar argument by the assessor in *Racquet Club, Inc.*, (Shelby Co., Tax Years 2001 and 2002). That decision is appended to this order and hereby incorporated by reference in relevant part.

The administrative judge finds the best evidence of the value of subject land was that introduced by Mr. Schwalls. The administrative judge finds that subject property is presently zoned residentially and a zoning change must be considered highly unlikely given the location of subject property.

The administrative judge finds that Mr. Schwalls properly considered subdivision/lot sales in arriving at his estimate of land value. The administrative judge finds Mr. Schwalls' cross-examination of Mr. Bankston established that the highest and best use of every sale relied on by the assessor was for commercial use. The administrative judge finds that such sales do not reflect the value of subject acreage because it has no realistic prospects for commercial use.

The administrative judge recognizes that the various assumptions in Mr. Schwalls' subdivision analysis are not beyond challenge. Absent additional proof from the assessor, however, the administrative judge finds that Mr. Schwalls' analysis must be considered unrefuted.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$2,450,000	\$ -0-	\$2,450,000	\$612,500

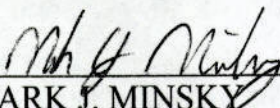
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls
Tameaka Stanton-Riley, Appeals Manager

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

Appeal of:	RACQUET CLUB, INC.)	
	Ward 56, Block 33, Parcel 173C)	Shelby County
	Commercial Property)	
	Tax Years 2001 & 2002)	

FINAL DECISION AND ORDER

Statement of the Case

This is an appeal by the taxpayer from the initial decision and order of the administrative judge, who determined that the subject property should be assessed as follows:

<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
173C	\$5,059,100	\$5,234,000	\$10,293,100	\$4,117,240

The appeal was heard in Memphis on December 18, 2003, before an administrative judge¹ and Commission members Isenberg (presiding), Brooks and Millsaps. Mr. David C. Scruggs and A. Kent Gieselmann, Jr. represented the taxpayer and Kevin Bokoske represented the assessor.

Findings of Fact and Conclusions of Law

The Racquet Club (the "Club") is a health club facility located on approximately 15.48 acres at 5111 Sanderlin Avenue in Memphis, Tennessee. The property is located in the middle of the east Memphis business area just north of the Poplar corridor. The Club's original building, now the clubhouse, was constructed in 1958. From 1974 to 1988, the facility underwent major renovations and enlargements resulting in two tennis buildings, a corridor and mezzanine, a tennis stadium, a two-story concourse adjoining the stadium and executive suites. These improvements contain approximately 176,216 combined square feet of gross building area. The facility has twenty-seven indoor and outdoor tennis courts, racquetball courts, a swimming pool, whirlpool, fitness center, beauty shop, restaurant, snack bar and banquet hall. Most importantly, the property is currently zoned RS10 – residential with 10,000 foot lots and special use allowances for lodges and clubs. The current zoning does not allow for commercial or dense residential development.

¹ An administrative judge other than the judge who rendered the initial decision and order sits with the Commission pursuant to Tenn. Code Ann. §4-5-301 and rules of the Board.

At the hearing before the Commission, Mr. George B. Long, Jr., MAI, testified on behalf of the taxpayer that the highest and best use of the land was not a health club, because the income to the land improved as a health club simply was insufficient as a fair return to land as valuable as the subject property. Instead, the highest and best use would be a combination of low density multi-family residential, office development and limited retail development. He explained that obtaining the proper zoning necessary to put the property to its highest and best use would be a difficult process, involving much time, money and effort. Mr. Long testified that to assume that the land could get such zoning would be pure speculation, and therefore improper for the purpose of determining fair market value.

The administrative judge declined to accept Mr. Long's assertions regarding the potential uses of the property, citing references in the testimony to a proposed condominium development in the area. Before the Commission, the taxpayer offered additional expert testimony regarding the difficulty of rezoning the property to more intensive uses, particularly citing likely opposition from neighboring residential owners. Mr. Todd Glidewell, MAI, supported Long's conclusions regarding alternative uses, and he testified that a buyer would not pay over \$10,000,000 for a property whose income did not support even \$5,000,000. He concurred with Mr. Long's value of \$4,630,000. We find this testimony has sufficiently established that Mr. Long's assumptions regarding alternative uses are valid. Indeed, the assessor's assumption of more intensive uses for the land under these circumstances is speculative at best.

Mr. Long determined a land value by analyzing recent comparable land sales, particularly relying on land sale number 5 in his appraisal, a recent sale within 500 yards of the subject property. This comparable property was superior to the subject property in that it was one-third the size of the subject and had already received permission for commercial use at the time of the sale. It sold for an adjusted price of \$8.25 per square foot. Mr. Long testified that based on land sale number 5, even if the administrative judge was correct in his holding, the outside range of value for the subject was \$8.25 per square foot, or \$5,565,000. However, Mr. Long determined that the subject was inferior to the comparable land sales, because while the comparables all had proper zoning at the time of sale, the

subject does not. His opinion of the land value of the subject property was \$4,630,000, or \$6.86 per square foot.

At the hearing, the assessor contended that the subject property was a single purpose property with a limited market in Shelby County, and therefore the best valuation of the property was its "value in use." Based on her view of the subject as a single purpose property, the assessor valued the property using the cost approach. The assessor's staff appraiser testified to a final value of \$10,490,000, or \$15.75 per square foot. We find, however, in view of the rebuttal testimony offered by Mr. Glidewell, that the assessor did not establish the necessary factors cited by appraisal authorities to justify her "value-in-use" approach, and that approach must be rejected in this case.

With regard to the value of the land, the Commission finds that the best evidence of value is Mr. Long's comparable sale number 5, supporting a value of \$5,565,000. Although other comparable sales cited in Long's appraisal might support a lower value, we find it inappropriate to entirely ignore the contribution of the improvements and therefore the higher figure is appropriate in our view. The Commission finds that the land value of \$4,630,000 is correct, and that the improvements have a nominal value of \$935,000 for a total value of \$5,565,000. Accordingly, the decision of the administrative judge is reversed.

ORDER

It is therefore ORDERED that the initial decision and order of the administrative judge is reversed, and the following values are to be applied for both Tax Year 2001 and Tax Year 2002:

<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
173C	\$4,630,000	\$935,000	\$5,565,000	\$2,226,000

This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.

Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this Order.

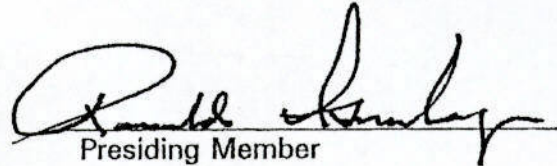
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be

filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this Order.

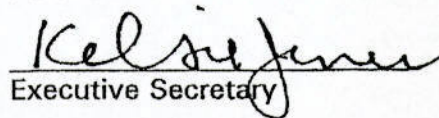
3. Review by the Chancery Court of Davidson County or other county as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: March 31, 2004


Presiding Member

ATTEST:


Executive Secretary

cc: Mr. David C. Scruggs, Esq.
Ms. Tameaka Stanton-Riley, Assessor's office